



2018/0900(COD)

18.10.2018

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DRAFT REPORT

on the draft regulation of the European Parliament and of the Council on
amending Protocol No 3 on the Statute of the Court of Justice of the European
Union
(02360/2018 – C8-0132/2018 – 2018/0900(COD))

Committee on Legal Affairs

Rapporteur: Tiemo Wölken

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft regulation of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union (02360/2018 – C8-0132/2018 – 2018/0900(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the request from the Court of Justice submitted to Parliament and the Council, in its revised version (02360/2018),
 - having regard to Article 256(1) and the second paragraph of Article 281 of the Treaty on the Functioning of the European Union, and Article 106a(1) Treaty establishing the European Atomic Energy Community, pursuant to which the draft act was submitted to Parliament (C8-0132/2018),
 - having regard to Article 294(3) and (15) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Commission (COM(2018)0534),
 - having regard to Rules 48 and 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Constitutional Affairs (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission, the Court of Justice and the national parliaments.

Amendment 1

Draft regulation Recital 5

Draft by the Court of Justice

(5) In the light of the constant increase in the number of cases brought before the Court of Justice, and in accordance with the letter from the President of the Court of Justice of the European Union of 13 July 2018, it is necessary, at this stage, to prioritise the establishment of the procedure mentioned above whereby the Court of Justice decides whether an appeal should be allowed to proceed. The

Amendment

(5) In the light of the constant increase in the number of cases brought before the Court of Justice, and in accordance with the letter from the President of the Court of Justice of the European Union of 13 July 2018, it is necessary, at this stage, to prioritise the establishment of the procedure mentioned above whereby the Court of Justice decides whether an appeal should be allowed to proceed. The

component of the request made by the Court of Justice on 26 March 2018 that relates to the partial transfer to the General Court of infringement proceedings should be examined at a later stage, after the report on the functioning of the General Court provided for in Article 3(1) of Regulation 2015/2422 of the European Parliament and of the Council of 16 December 2015 has been drawn up, in December 2020.

component of the request made by the Court of Justice on 26 March 2018 that relates to the partial transfer to the General Court of infringement proceedings should be examined at a later stage, after the report on the functioning of the General Court, *in particular, on the efficiency of the General Court, the effectiveness of and need for an increase in the number of judges to 56*, provided for in Article 3(1) of Regulation 2015/2422 of the European Parliament and of the Council of 16 December 2015 has been drawn up, in December 2020, *where the achievement of gender balance within the General Court should also be assessed. In order to achieve that objective, partial replacements in that Court should be organised in such a way that the governments of Member States gradually begin to nominate two Judges for the same partial replacement with the aim therefore of choosing one woman and one man, provided that the conditions and procedures laid down by the Treaties are respected.*

Or. en

Amendment 2

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Protocol No 3 on the Statute of the Court of Justice of the European Union

Article 58a

Draft by the Court of Justice

An appeal brought against a decision of the General Court concerning a decision of a board of appeal of the European Union Intellectual Property Office, the Community Plant Variety Office, the European Chemicals Agency or the European Aviation Safety Agency shall not proceed unless the Court of Justice first

Amendment

Where the seising of an independent administrative body whose members are not bound by any instructions when taking their decisions is a prerequisite of an action being brought before the General Court, an appeal brought against the decision of the General Court shall not proceed unless the Court of Justice first

decides that it should be allowed to do so.

An appeal shall be allowed to proceed, in accordance with the detailed rules set out in the Rules of Procedure, where it raises, wholly or in part, an issue that is significant with respect to the unity, consistency or development of Union law.

The decision as to whether the appeal should be allowed to proceed shall be reasoned and published.

decides that it should be allowed to do so.

An appeal shall be allowed to proceed, in accordance with the detailed rules set out in the Rules of Procedure, where it raises, wholly or in part, an issue that is significant with respect to the unity, consistency or development of Union law.

The decision as to whether the appeal should be allowed to proceed *or not* shall be reasoned and published.

Or. en

EXPLANATORY STATEMENT

The proper functioning of the Court of Justice is essential for the legal protection of EU citizens. The scope offered by the reform of the structure of the European courts adopted in December 2015 must be exploited to the full and responsibilities must be allocated between the General Court and the Court of Justice in such a way that EU citizens can secure legal protection quickly and effectively. The proposal made by the Court of Justice involving amendments to Protocol No 3 on the Statute of the Court of Justice of the European Union is fundamentally consistent with these objectives.

The terminological adjustments in keeping with the Lisbon reform make sense.

The transfer to the Court of Justice of responsibility for dealing with actions for annulment linked to the failure properly to comply with a judgment delivered by the Court of Justice under Article 260(2) or (3) TFEU is welcome.

The introduction, for certain categories of appeals, of a procedure whereby the Court of Justice will first determine whether certain appeals can be allowed to proceed is welcome in principle. However, the independent administrative authorities should not be listed individually. Instead, a comprehensive, abstract approach should be taken so that this provision does not quickly become outdated. The text should also make clear that decisions not to allow an appeal to proceed, and the reasons underpinning such decisions, must also be published.

As regards the issue of the possible transfer to the General Court of responsibility for adjudicating at first instance on certain categories of infringement proceedings, the decision to await the adoption in December 2020 of the report on the working methods of the General Court seems appropriate. That report will follow on from the completion of the third stage of the reform of the structure of the European courts (September 2019); it will focus on the efficiency of the General Court and the value of increasing the number of judges to 56, if indeed such an increase is necessary at all. In that connection, consideration should be given to establishing a gender balance within the General Court. As regards the transfer of responsibility in the area of infringement proceedings, due account should be taken of the fact that such proceedings are the Commission's most powerful weapon against Member States which fail to comply with EU law. They are thus essential for the effective implementation of EU law. Steps must be taken to ensure that the transfer of responsibility to the General Court does not result in proceedings taking longer. There is also the issue of the appropriateness of the transfer, given that infringement proceedings make up only a relatively small proportion of cases pending. In particular, it is not clear whether such a step is the best way of bringing about structural change.